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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,517	02/13/2004	Francis M. Claessens	46505/5	8907
1912	7590	06/03/2005	EXAMINER	
AMSTER, ROTHSTEIN & EBENSTEIN LLP			TRAIL, ALLYSON NEEL	
90 PARK AVENUE			ART UNIT	PAPER NUMBER
NEW YORK, NY 10016			2876	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/779,517	<b>Applicant(s)</b> CLAESSENS ET AL.	
	<b>Examiner</b> Allyson N. Trail	<b>Art Unit</b> 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7-2004</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Objections*

1. Claims 5 and 6 are objected to because of the following informalities:  
Re claims 5 and 6, last line of each claim: replace "disabled" with --disabled.--.  
Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims ~~1-3 and 7~~ <sup>1-7</sup> are rejected under 35 U.S.C. 102(b) as being anticipated by Maltseff (2002/0097282).

Maltseff teaches the following in regards to claims 1 and 7:

"A method for tracking tax payment information includes fixing a unique machine readable identifier to each of a number of taxable items, storing each of the unique machine readable identifiers in a computer readable memory, and storing tax payment information in the computer readable memory for each of the items. The unique machine readable identifier may take the form of a machine readable symbol such as a barcode symbol or as a wireless memory device such as a radio frequency identification ("RFID") tag. The tax information may include data such as the tax payment status, tax payment authority, a tax payment sum, a tax payment date, identify of a manufacturer, identify of a product or product type, and the identify of a product origin." (Abstract).

Maltseff teaches the following in regards to claim 2:

"In the case of a wireless memory device, the unique identifier or serial number may be permanently stored in the device." (Paragraph 0010).

Maltseff teaches in regards to claim 3, placing the tag across the cover of the package such that the tax stamp must be destroyed when the package is opened, thereby preventing the package from being refilled. (Paragraph 0002).

Maltseff teaches the following in regards to claims 4-6:

"FIG. 3 shows a number of taxable items or taxable goods 38. For example, the goods may include a bottle of distilled spirits 40, a package of cigarettes 42, an article of clothing such as a fur coat 44, a bottle of perfume 46, an automobile 48 or a yacht 50. In each case a machine readable symbol 14 or RFID tag 30 is secured to the taxable good 38. In some instances, for example the bottle of distilled spirits 40 and the package of cigarettes 42, the RFID tag 30 or machine readable symbol 14 covers the opening of the packaging. This ensures the destruction of the RFID tag 30 or machine readable symbol 14 upon the opening of the bottle 40 or package 42. Destruction of the RFID tag 30 or machine readable symbol 14 prevents the packaging from being refilled in an attempt to avoid payment of the appropriate taxes." (Paragraph 0032).

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Smith et al (2003/0129758), Rudolph et al (2003/0069793), Gelbman (2002/0167500).

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Allyson N. Trail* whose telephone number is (571) 272-2406. The examiner can normally be reached between the hours of 7:30AM to 4:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571) 272-2398. The fax phone number for this Group is (703) 872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [[allyson.trail@uspto.gov](mailto:allyson.trail@uspto.gov)].

*All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*

Allyson N. Trail  
Patent Examiner  
Art Unit 2876  
May 27, 2005

*Jared J. Furman*  
**JARED J. FURMAN**  
**PRIMARY EXAMINER**